

**SENATE, No. 1364**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED FEBRUARY 26, 2008

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**Senator BILL BARONI**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Senator Bateman**

**SYNOPSIS**

“Judy and Nikki’s Law;” provides for life imprisonment without parole for persons convicted of murder of a child 16 years of age or younger.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/19/2009)**

1 AN ACT concerning the murder of a child, designated as “Judy and  
2 Nikki’s Law,” and amending N.J.S.2C:11-3.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. N.J.S.2C:11-3 is amended to read as follows;  
8 2C:11-3. Murder.

9 a. Except as provided in N.J.S.2C:11-4, criminal homicide  
10 constitutes murder when:

11 (1) The actor purposely causes death or serious bodily injury  
12 resulting in death; or

13 (2) The actor knowingly causes death or serious bodily injury  
14 resulting in death; or

15 (3) It is committed when the actor, acting either alone or with  
16 one or more other persons, is engaged in the commission of, or an  
17 attempt to commit, or flight after committing or attempting to  
18 commit robbery, sexual assault, arson, burglary, kidnapping,  
19 carjacking, criminal escape or terrorism pursuant to section 2 of  
20 P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of  
21 immediate flight therefrom, any person causes the death of a person  
22 other than one of the participants; except that in any prosecution  
23 under this subsection, in which the defendant was not the only  
24 participant in the underlying crime, it is an affirmative defense that  
25 the defendant:

26 (a) Did not commit the homicidal act or in any way solicit,  
27 request, command, importune, cause or aid the commission thereof;  
28 and

29 (b) Was not armed with a deadly weapon, or any instrument,  
30 article or substance readily capable of causing death or serious  
31 physical injury and of a sort not ordinarily carried in public places  
32 by law-abiding persons; and

33 (c) Had no reasonable ground to believe that any other  
34 participant was armed with such a weapon, instrument, article or  
35 substance; and

36 (d) Had no reasonable ground to believe that any other  
37 participant intended to engage in conduct likely to result in death or  
38 serious physical injury.

39 b. (1) Murder is a crime of the first degree but a person  
40 convicted of murder shall be sentenced, except as provided in  
41 paragraphs (2), (3) and (4) of this subsection, by the court to a term  
42 of 30 years, during which the person shall not be eligible for parole,  
43 or be sentenced to a specific term of years which shall be between  
44 30 years and life imprisonment of which the person shall serve 30  
45 years before being eligible for parole.

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) If the victim was a law enforcement officer and was  
2 murdered while performing his official duties or was murdered  
3 because of his status as a law enforcement officer, the person  
4 convicted of that murder shall be sentenced by the court to a term of  
5 life imprisonment, during which the person shall not be eligible for  
6 parole.

7 (3) A person convicted of murder shall be sentenced to a term of  
8 life imprisonment without eligibility for parole if the [murder was  
9 committed under all of the following circumstances:

10 (a) The] victim is [less than 14] 16 years [old; and

11 (b) The act is committed in the course of the commission,  
12 whether alone or with one or more persons, of a violation of  
13 N.J.S.2C:14-2 or N.J.S.2C:14-3] of age or less.

14 (4) Any person convicted under subsection a.(1) or (2) who  
15 committed the homicidal act by his own conduct; or who as an  
16 accomplice procured the commission of the offense by payment or  
17 promise of payment of anything of pecuniary value; or who, as a  
18 leader of a narcotics trafficking network as defined in N.J.S.2C:35-  
19 3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3,  
20 commanded or by threat or promise solicited the commission of the  
21 offense, or, if the murder occurred during the commission of the  
22 crime of terrorism, any person who committed the crime of  
23 terrorism, shall be sentenced by the court to life imprisonment  
24 without eligibility for parole, which sentence shall be served in a  
25 maximum security prison, if a jury finds beyond a reasonable doubt  
26 that any of the following aggravating factors exist:

27 (a) The defendant has been convicted, at any time, of another  
28 murder. For purposes of this section, a conviction shall be deemed  
29 final when sentence is imposed and may be used as an aggravating  
30 factor regardless of whether it is on appeal;

31 (b) In the commission of the murder, the defendant purposely or  
32 knowingly created a grave risk of death to another person in  
33 addition to the victim;

34 (c) The murder was outrageously or wantonly vile, horrible or  
35 inhuman in that it involved torture, depravity of mind, or an  
36 aggravated assault to the victim;

37 (d) The defendant committed the murder as consideration for the  
38 receipt, or in expectation of the receipt of anything of pecuniary  
39 value;

40 (e) The defendant procured the commission of the murder by  
41 payment or promise of payment of anything of pecuniary value;

42 (f) The murder was committed for the purpose of escaping  
43 detection, apprehension, trial, punishment or confinement for  
44 another offense committed by the defendant or another;

45 (g) The murder was committed while the defendant was engaged  
46 in the commission of, or an attempt to commit, or flight after  
47 committing or attempting to commit murder, robbery, sexual

1 assault, arson, burglary, kidnapping, carjacking or the crime of  
2 contempt in violation of subsection b. of N.J.S.2C:29-9;

3 (h) The defendant murdered a public servant, as defined in  
4 N.J.S.2C:27-1, while the victim was engaged in the performance of  
5 his official duties, or because of the victim's status as a public  
6 servant;

7 (i) The defendant: (i) as a leader of a narcotics trafficking  
8 network as defined in N.J.S.2C:35-3 and in furtherance of a  
9 conspiracy enumerated in N.J.S.2C:35-3, committed, commanded  
10 or by threat or promise solicited the commission of the murder or  
11 (ii) committed the murder at the direction of a leader of a narcotics  
12 trafficking network as defined in N.J.S.2C:35-3 in furtherance of a  
13 conspiracy enumerated in N.J.S.2C:35-3;

14 (j) The homicidal act that the defendant committed or procured  
15 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

16 (k) **【The victim was less than 14 years old】** (Deleted by  
17 amendment, P.L. , c. ) (pending before the Legislature as this  
18 bill); or

19 (l) The murder was committed during the commission of, or an  
20 attempt to commit, or flight after committing or attempting to  
21 commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-  
22 2).

23 (5) A juvenile who has been tried as an adult and convicted of  
24 murder shall be sentenced pursuant to paragraph (1), (2) or (3) of  
25 this subsection.

26 c. (Deleted by amendment, P.L.2007, c.204).

27 d. (Deleted by amendment, P.L.2007, c.204).

28 e. (Deleted by amendment, P.L.2007, c.204).

29 f. (Deleted by amendment, P.L.2007, c.204).

30 g. (Deleted by amendment, P.L.2007, c.204).

31 h. (Deleted by amendment, P.L.2007, c.204).

32 i. For purposes of this section the term "homicidal act" shall  
33 mean conduct that causes death or serious bodily injury resulting in  
34 death.

35 j. In a sentencing proceeding conducted pursuant to this  
36 section, the display of a photograph of the victim taken before the  
37 homicide shall be permitted.

38 (cf: P.L.2007, c.204, s.1)

39  
40 2. This act shall take effect immediately and shall be applicable  
41 to any person sentenced on or after the effective date.  
42  
43

#### 44 STATEMENT

45  
46 This bill designated as “Judy and Nikki’s law” would provide  
47 that a person convicted of murder of a child 16 years of age or less  
48 would be sentenced to life imprisonment without eligibility for

1 parole. This bill's title is in honor of Judy Cajuste and Nicole  
2 Giovanni, who were two teenage murder victims. Judy Cajuste was  
3 a bright, energetic 14 year-old high school freshman sprinter on the  
4 track team at Abraham Clark High School in Roselle. She  
5 disappeared on January 11, 2006 shortly after track practice. Her  
6 body was later found in Weequahic Park in Newark. Nicole  
7 Giovanni of Roselle Park was also recently and tragically murdered.  
8 She was a 14 year-old freshman and accomplished indoor track  
9 runner at Roselle Catholic High School. She was allegedly  
10 bludgeoned to death by her mother Lynn Giovanni in February  
11 2005.

12 N.J.S.A.2C:11-3 provides that if a person is convicted of murder  
13 the person must be sentenced either to a term of 30 years  
14 imprisonment with no eligibility of parole or to a specific term of  
15 years between 30 years and life imprisonment of which the person  
16 must serve 30 years before being eligible for parole. In addition,  
17 N.J.S.A.2C:11-3 provides for a mandatory sentence of life  
18 imprisonment without eligibility for parole under the following  
19 circumstances: a person convicted of the murder of a law  
20 enforcement officer or a person convicted of the murder of a child  
21 under the age of 14 during the commission of a sexual assault.

22 This bill changes the second circumstance where life  
23 imprisonment is imposed by increasing the age of a child from 14  
24 years of age to 16 years of age and by removing the factor that the  
25 murder was committed during the commission of a sexual assault.  
26 Therefore, under the provisions of the bill if a person is convicted  
27 of the murder of a child 16 years of age or less that person would be  
28 sentenced to life imprisonment without parole.